

State of Washington
History of Tort Liability Review

- State Constitution authorizes Legislature to direct by law manner in which suits may be brought against the State.
- Early 1960's – Legislature waived State's immunity for tortious conduct – said State could be sued same as private person/corporation – “waiver of sovereign immunity”.
- Courts interpreted Legislative intent to limit liability where there was private parallel. Not applied to uniquely governmental activities, i.e., public policy decisions/programs.
- Courts continued to expanded the State's liability boundaries – specifically:
 - **1960's** – Typical lawsuits involved state driver accidents, state property defects and highway-related claims.
Tort payout = \$1 mil/biennium
 - **1970's** – Mid 70's Supreme Court said State did not have immunity for highway design and pursuit-related decisions. End of 70's brought greater variety of lawsuits.
Tort payout = \$2-6 mil/biennium
 - **1980's** – “Failure to improve highways” liability grows. New liability from Supreme Court re: crimes committed by released mental patients and increased law enforcement actions. Lawsuit variety grows, including discrimination and harassment lawsuits by state employees authorized (end of 1980's). In 1984, Court decision adds wrongful discharge.
Tort payout late 80's = \$15-30 mil/biennium
 - **1990's** – Employment lawsuits rise rapidly in early 90's. Three Supreme Court decisions expand liability and cause *major increase in tort claims*.
 - ▲ 1991 - “Negligent investigation”: State is responsible for recommendations made to Court on placement of dependent children.
 - ▲ 1992 - Crimes by Parolees: State has duty to “control” parolee behavior.
 - ▲ 1997 - Adoptive parents: Adoptive parents can sue for adopting a child who develops behavior problem if the State did not warn about the child's background.*Tort Payout early 90's = \$22-25 mil/biennium*
Tort Payout late 90's = \$50 mil/biennium
 - **2000** – Increase in number of claims filed in expanded liability areas of last two decades.
Tort Payout 2001 = \$85 million